

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19

ILWU UNIT 223	Cases	19-CB-214679
		19-CB-217721
and		19-CB-219932
JEFFREY TREANNIE,		19-CB-223814
an Individual		19-CB-225400
and	Cases	19-CB-218383
		19-CB-219935
KILLIAN BAKER,		19-CB-223826
an Individual		19-CB-240433
and	Case	19-CB-236447
RANDALL BAKER,		
an Individual		

MATSON NAVIGATION COMPANY
OF ALASKA

and	Case	19-CA-217681
JEFFREY TREANNIE,		
and Individual		

AMERICAN PRESIDENT LINES, LLC

and	Case	19-CA-218371
KILLIAN BAKER,		
an Individual		

AMERICAN PRESIDENT LINES, LLC/
MATSON NAVIGATION COMPANY OF
ALASKA/NORTH STAR STEVEDORE/
SUNDANCE STEVEDORE, Joint Employers

and	Case	19-CA-223795
JEFFREY TREANNIE,		
an Individual		
and	Case	19-CA-223831
KILLIAN BAKER,		
an Individual		
and	Case	19-CA-236445
RANDALL BAKER,		
an Individual		

**MOTION BY RESPONDENT ILWU UNIT 223 FOR A POSTPONEMENT
OF THE FEBRUARY 3 HEARING DATE**

Comes now the ILWU Unit 223 by and through Counsel and moves to postpone the hearing date now set for February 3, 2020 in Dutch Harbor, Alaska. This motion is timely, made for good cause and filed in excess of 21 days before the hearing.

OVERVIEW

Two weeks ago the Board changed the criteria for deferral of Unfair Labor Practice cases to arbitration in *United Parcel Service*, 369 NLRB No. 1 (Dec.23, 2019). Thursday, January 2, 2020 the Employers, APL and Matson filed a motion to defer the Jeff Treannie issues to arbitration under the new criteria. The Union will be filing a joinder to that motion this week. Friday, January 3, 2020 Counsel for the Employers, the Union, and the NLRB discussed the case. No attorney made any commitment on any matter on behalf of their respective parties. The discussion was informative, informal but professional, and broad ranging. It covered the legal issues, the likely effect of deferral if it is granted, and the fact that no ALJ has yet been appointed to the case, and the increased difficulty and uncertainty of travel to and from Unalaska/Dutch Harbor since the plane crash of October 17, 2019. Also discussed was the strong likelihood that this motion for postponement would be filed on Monday, January 6, 2020.

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THE LEGAL REASONS FOR POSTPONEMENT

1. The law of the case has significantly changed. On December 23, 2019 the *United Parcel* decision made a massive change on the law relating to this case. Deferral to arbitration is now a distinct possibility. Under the preexisting rules deferral was not nearly as likely as it is now. A motion to defer the Jeff Treannie issues to arbitration was filed Thursday, January 2, 2020. On information and belief a motion to defer the Killian and Randall Baker issues will be filed today, Monday January 6, 2020. Those motions, if granted, will eliminate a need for the NLRB to hear the cases in Unalaska/Dutch Harbor.

2. At this writing the Respondents are, for all practical purposes, planning to present essentially the same case on Jeff Treannie's issues before the NLRB that was previously presented to Arbitrator Ugles in 2018. That case took 6 days over September 11-13 and November 13-16, 2018. There were approximately 90 exhibits and 18 witnesses. I personally expect the "re-do" to be faster on the exhibits but slower on the witnesses. Also, Ugles had prior experience with the

parties and with Treannie. He arrived with a good working background on the issues. That won't be the case with the newly appointed ALJ. Add more time.

3. If we add the Killian Baker issues and the Randal Baker issues (again, I believe the motion to defer those will be filed today) the time needed for a fair hearing obviously expands.

4. In non-binding discussions on Friday, January 3, 2020 counsel for the NLRB indicated a desire to try the damage issues along with the liability issues. That will take more time.

5. This case is a major undertaking for all parties. It makes good sense and good policy to postpone it until we are sure what parts, if any, will actually go to a hearing before the NLRB.

6. Even if only some of the issues are deferred to arbitration the elimination, for example, of the Treannie issues changes the overall complexion of the case and increases the likelihood that some or all of the remaining issues could settle.

7. We're looking at a case that could easily go to into a second week in a remote location. There is no reason to push the parties into the level of prehearing work necessary for a case that demanding that may soon be deferred in part or in total.

THE ALJ REASONS FOR POSTPONEMENT

8. No ALJ has yet been appointed to this case. That raises both legal and practical concerns.

a. **Legal.** If the motions to defer have to be ruled on by the ALJ assigned to the case we have no idea when that will take place. There is concern that the Board and particularly the ALJ will not be able to invite further briefing and/or make a ruling in time to allow the orderly case preparation after the ruling. It makes no

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sense for the NLRB or any of the other parties to be forced to prepare for a case of this size until we resolve the question of whether all or any part of it is even going to a hearing. And if deferral doesn't affect all issues it makes sense to explore whether the fact of deferral has made it possible to settle the remaining issues.

b. **Practical.** As discussed further below, since the crash of October 17, 2019 the status of air service to Dutch Harbor has been in flux. It's not clear that plane tickets will even be available for the February 3, 2020 hearing date by the time an ALJ is appointed.¹ Air service to Unalaska/Dutch Harbor has significantly changed. Wholly aside from the legal effects of *United Parcel Service* the practical effects of the change in the air service may justify a postponement of the hearing.

More on that follows:

THE PRACTICAL REASONS FOR POSTPONEMENT – AIR SERVICE TO UNALASKA IS TEMPORARILY CHAOTIC.

9. The reliability Air Service to Unalaska/Dutch Harbor has substantially diminished since this case was originally scheduled.

a. On October 17, 2019 a Saab 2000 twin engine turboprop passenger plane went off the runway at Unalaska's "notoriously challenging airport" killing one passenger and injuring four others (Exhibit 2). Alaska Airlines announced that it was ceasing service to Unalaska through the end of May 2020 (Exhibit 3). Alaska Airlines had been selling up to three flights a day to Unalaska (Exhibit 4). Ravn Air Group delayed resumption of service leaving Unalaska with no scheduled air

¹ On Monday morning, January 6, 2020 my office checked on seat availability from Anchorage to Dutch Harbor. For Saturday, February 1, 2020 and looking at all of the Ravn flights, there are currently 4 seats available (Exhibit 1).

service for a month (Exhibit 4). When air service resumed the Saab 2000 was no longer in service to Unalaska. Instead, Ravn Air Group uses the de Havilland Dash 8 (Exhibit 2). The Dash 8 has limited capacity, requires mid-route refueling, and baggage is limited to one bag or bumped (Exhibit 3).

b. On Friday, December 20, 2020 Ravn Air Group was hit with a cyber-attack. According to its cyber-attack update of December 28, 2019 “Ravn Air Group continues to be impacted by the cyber-attack and the impact of the disruption no appears more extensive than initially reported.” (Exhibit 5). The update goes on to say: “Given this news, customers should expect some additional cancelations and delays at all airlines as recovery efforts continue in coordination with government officials and outside cyber-crime experts.”

c. Finally, and I hesitate to include this, but given the improbability of the other disruptive events that have come to pass so far I want to at least mention that the Shishaldin volcano, which erupted briefly last month, began erupting again on Friday morning, January 3, 2020 and sent an ash cloud nearly 5 miles high (Exhibit 6). While volcanic activity on the Aleutian chain is not unusual and this plume did not, to my knowledge materially affect air traffic the location of the now erupting Shishaldin volcano on Unimak Island is potentially problematic for air travel to Unalaska. Unimak is directly between Dutch Harbor and Anchorage.

d. It’s important to understand what the loss of a major air carrier and chaos within the remaining one means to travelers. Unalaska is now underserved. It will be underserved on February 3, 2020. So, for example, if you miss your flight in, or out, due to weather, cyber-attack, or otherwise, there may not be excess capacity to

get you out on the next flight, or later that day or the next day. Traveling in rural Alaska always poses that risk. But for now and the near future (February) that risk is higher than when this case was set. The risks are not permanent. But they're real.

e. Finally, I am personally in touch with Dutch Harbor residents through my work for the ILWU in this and other cases. I can honestly convey that the personal and unofficial reports from my clients who are residents of Unalaska is that air travel there is and remains "a mess".

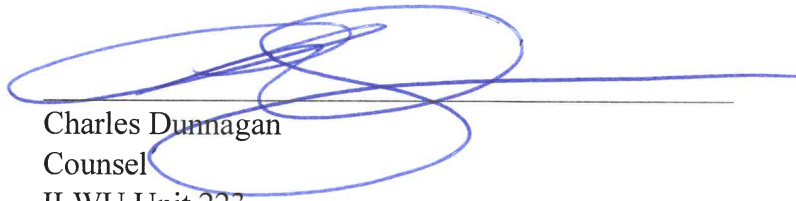
10. Future Proposed Dates. Ordinarily a motion for postponement includes suggested future dates. In this case the postponement is due to matters that are unresolved now but should be resolved in the relatively near future. First is the clarification of what issues will actually go to a hearing in this case. All or a significant number of issues may no longer be headed for a hearing before the NLRB. Secondly, the expected increase in the number of air carriers serving Dutch Harbor should go back to normal by May. If we still have to have a hearing we should do it when air service is in working order. That isn't the case since the plane crash. In any event it is my belief that a date setting should follow the resolution of whether another date will be necessary.

CONCLUSION

This case should be postponed until 1) we know what issues, if any, will actually go to a hearing and; 2) we have more accessible and reliable air service at Dutch Harbor. Both of those criteria should be resolved in the relatively near future. But neither is resolved now nor will they be resolved in time for the parties to conduct a hearing on February 3, 2020.

Good cause exists for a temporary postponement at this time.

Respectfully submitted this 6th day of January, 2020.



Charles Dunnagan
Counsel
ILWU Unit 223

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was served as noted this January 6, 2020, to

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ANCHORAGE DAILY NEWS

Aviation

NTSB: Pilot in fatal Unalaska crash had little experience with plane

✍ Author: Zaz Hollander ⓘ Updated: November 18, 2019 📅 Published November 15, 2019



Rescue crews respond to a plane crash at the end of the runway at the Unalaska airport on Oct. 17. (Photo by Erin Enlow)

The pilot involved in a fatal commercial airline crash at Unalaska's notoriously challenging airport landed with unfavorable, gusty winds and had relatively little experience with the plane.

That's according to a new investigative report released Friday by the National Transportation Safety Board.

The Saab 2000 twin-engine turboprop operated by a Ravn Air Group subsidiary crashed Oct. 17 with 29 passengers and three crew, killing one passenger and injuring four others. The pilot overran the runway on his second landing attempt.

After nearly a month without regular service between Anchorage and Unalaska, Ravn started commercial service again Thursday with the de Havilland Dash 8. Ravn acquired the Saab 2000 fleet last year.

The pilot had 14,000 hours of flight time in the Dash 8, but only 101 hours in the Saab 2000, according to the report. The first officer said he had 147 hours in the Saab.

The crash flight was marketed under the name PenAir, short for longtime Alaska carrier Peninsula Airways, which flew the Saab 2000s into Unalaska. But the flight was operated by Ravn Air Group subsidiary Peninsula Aviation Services Inc., which bought PenAir's name and assets including the leased planes in a bankruptcy proceeding last year.

Generally, PenAir required pilots flying into Unalaska have at least 300 hours in the Saab 2000. PenAir founder Orin Seybert said after the crash that no aircraft, including the Saab, could have landed safely in the kind of tailwind the pilot experienced.

The flight crew told investigators they conducted a go-around on their first approach to the runway "because they were not stabilized," the report says.

Winds during the go-around were reported at 8 knots, and then 16 gusting to 30 afterward, investigators found. A weather observer talking to another plane said the winds favored an approach in the other direction — into the wind — on the runway, but that they could shift back to the direction the Ravn pilots used. During the plane's second approach, winds were reported at 24 knots.

The flight crew — the captain and first officer — told investigators they landed about 1,000 feet down the runway and the pilot initiated reverse thrust and normal wheel-braking, then maximum braking, but couldn't stop the plane, the report says. "The flight crew reported that they attempted to steer the airplane to the right at the end of the runway to avoid going into the water."

ANCHORAGE DAILY NEWS

Opinions

Alaska Airlines and Ravn Air decisions harm Unalaska

✍ Author: Frank Kelty | Opinion 🕒 Updated: November 18, 2019 📅 Published November 18, 2019



FILE - This Oct. 17, 2019, file photo shows a commuter airplane that crashed near the airport in a small Alaska community on the Bering Sea in Unalaska, Alaska. The flight crew of the plane that crashed in the remote Alaska community in October, fatally injuring a man, abandoned an initial landing attempt and faced stronger winds on their second try before the plane went off the runway, according to a federal report released Friday, Nov. 15. (Jim Paulin via AP, File)

In a recent letter to the mayor of Unalaska, Alaska Airlines announced that it will cease service to Unalaska through the end of May 2020. In my opinion, this is a terrible way for Alaska Airlines to treat its loyal customers

in Unalaska and the neighboring Aleutian Island communities. Local residents, businesses and the seafood industry have spent millions of dollars for Alaska Airlines tickets over the past several years.

Unalaskans have been left with no scheduled air service for the past month, leaving locals scrambling to organize expensive charter flights or having to cancel medical trips and vacations. How can Alaska Airlines justify walking away from its federally certified listed route to this area for another six months? As the preliminary National Transportation Safety Board report clearly stated, it was pilot error that caused the tragic accident on Oct. 17; not the runway, not the Saab 2000, not even the weather!

The Seybert family (former owners of Pen Air) operated the Saab 2000 for five years on this route with no problems. Do think this community is happy with being stuck with the Ravn Dash 8 aircraft? No, we are not happy that the Saab 2000 is not returning to this route. I will remind Alaska Airlines that the Saab 2000, which was thoroughly researched for this route by the Seybert family, was found to be the aircraft best equipped to handle the distance and the Unalaska airport. In my estimation, the Seyberts found the right aircraft. The Saab 2000 takes two hours to Anchorage, with no fuel stops, and it is able to take passengers' luggage most of the time.

Ravn's Dash 8 aircraft will set air travel to Unalaska back five years, similar to when the Saab 340 was used for this route. Like the Saab 340, the Dash 8 has limited capacity, requires mid-route refueling, and baggage will be limited to one bag or bumped. And because the Unalaska airport operates only in daylight, we can expect flights to be turned back due to late afternoon departures from Anchorage.

With air service now transferred to Ravn, Unalaskans will be burdened with a higher ticket price, estimated at \$1,250–\$1,300, for a round-trip ticket just to Anchorage. Additionally, with Alaska Airlines' decision to exclude the Anchorage–Unalaska route from its frequent flyer mileage plan, local residents will be faced with no choice but to pay exorbitant prices for tickets that are already the most expensive in the state at \$1,100 round trip! Those Alaska Air miles are critical for families, students and seafood industry folks to be able to afford travel to Anchorage and flights beyond. Is this the right way to treat a community that has been loyal to Alaska Airlines for more than 30 years?

The community is in an uproar over Alaska Airlines' decision. It will impact the residents, elders and people who need to use miles for medical appointments and family emergencies. Consider the costs for a family of five to travel to Anchorage. It will now cost them \$7,500! Alaska Airlines' decision will impact student and teacher travel costs, not to mention the additional cost to the seafood industry that has contributed to Alaska Airlines' profits over the years. Is this how they should be treated? I think not!

We don't know if the Saab 2000 will be used on this route again by Ravn. What kind of chaos will we have when we have weather delays during the starts of the A- and B-fishing seasons? How will Ravn handle moving the 300 people stuck in Anchorage and in Unalaska with the Dash 8s with only 27-35 seats? The traveling public will have to pay hundreds of dollars for meals and hotels in Anchorage and in Unalaska. Most of the fishing industry costs will be taken care of by their companies; but what about the local residents that will need to pay for lodging and meals waiting for a chance at a seat on these smaller airplanes?

In my opinion, I believe Alaska Airlines should have supported the Seybert family when they had the chance, prior to when this longstanding Alaska family and company was forced into bankruptcy. Another major mistake made by Alaska Airlines was allowing Ravn to use the Saab 2000 to fly all over Alaska, which wasn't allowed when the

Seybert family ran the operation with the Saab 2000. That aircraft should have stayed on the Bristol Bay/Aleutian routes with their most experienced pilots flying the Anchorage/Unalaska route. Instead, those pilots burned up their time flying to Fairbanks, Bethel, Kodiak and other communities. Ravn lost many of the experienced Pen Air Saab 2000 pilots when the company changed ownership, and the management team that the Seyberts had in place was either fired or quit.

The crash in October cost David Oltman his life and injured other passengers. This tragedy should not have happened.

Many of us will be writing letters to the editor for the Anchorage paper, the regional papers and to Alaska Airlines' online feedback section. I am urging our local elected officials to get in touch with the Alaska delegation in Washington, D.C., to ask that they get involved with this issue, as well as Gov. Mike Dunleavy.

With Alaska Airlines' decision to stop service for another six months, many of us believe that means Alaska will be deserting this community forever. Community members will be the ones to continue to suffer and at a huge financial cost.

I would remind Alaska Air that Unalaska/Dutch Harbor is the nation's No. 1 commercial fishing port, with 50,000 passengers going through the Unalaska airport each year. Unalaska's 5,000 local residents have been loyal to Alaska Airlines for decades.

Throughout the years, Alaska Airlines has been very supportive to the residents, local nonprofits and communities across Alaska with travel issues, and we greatly appreciate that.

I can only hope that Alaska Air will do the right thing and reevaluate its decision on this issue.

Frank Kelty is a former mayor and city council member for the City of Unalaska. He worked 30 years in the Alaska seafood industry and is a 50-year resident of Unalaska.

The views expressed here are the writer's and are not necessarily endorsed by the Anchorage Daily News, which welcomes a broad range of viewpoints. To submit a piece for consideration, email commentary@adn.com. Send submissions shorter than 200 words to letters@adn.com or click [here](#) to submit via any web browser. Read our full guidelines for letters and commentaries [here](#).

ANCHORAGE DAILY NEWS

Aviation

Ravn Air delays restart of scheduled service to Unalaska until a month after fatal crash

✎ Author: Zaz Hollander ⌚ Updated: November 6, 2019 📅 Published November 6, 2019

Ravn Air Alaska says daily scheduled flights between Anchorage and the Aleutian Islands city of Unalaska won't resume until mid-November.



A Penair plane that flew from Anchorage to Dutch Harbor, pictured off the runway at the Unalaska-Dutch Harbor airport on Thursday, Oct. 17, 2019. (Jennifer Wynn)

The company and Alaska Airlines suspended service to the plane-dependent city following the Oct. 17 crash of a Saab 2000 twin-engine turboprop that overran the runway, killing a Washington state man and injuring numerous passengers. Federal investigators are looking into the cause of the crash.

Unalaskans with travel plans or medical needs are running into a backlog of chartered seats to get out.

Ravn had said it planned to resume daily scheduled service this week.

“RavnAir Alaska continues to work through the necessary requirements it has established before the company can start new daily Dash-8 service to Unalaska,” the company said in a statement Wednesday. “Recent bad weather in the Dutch Harbor area caused multiple flight cancellations over the past few days, and these cancellations have delayed the start of new scheduled service until next Friday, November 15th.”

A Ravn spokeswoman didn’t immediately respond to questions about how the cancellations factored into the resumption of service or the status of Federal Aviation Administration approval needed to start the route.

Alaska Airlines was selling up to three trips a day to Unalaska using the Saab 2000, a flight marketed as a PenAir trip but operated by Ravn Air Group subsidiary Peninsula Aviation Services. Alaska Airlines has canceled flights through at least Nov. 20.

Numerous charter services are flying passengers between Anchorage and Unalaska, including Ravn, which can provide charters even as it waits for approval of commercial flights because different federal restrictions apply to the two types of passenger service.

The city of Unalaska received federal approval to start publicly chartered flights, at least three a week, to provide an alternative for Unalaskans struggling with the complicated process of booking seats on chartered aircraft. Outbound flights were filling with fishermen and processing plant workers as the king crab season ended.

The city chose to charter with Ravn, at a cost of \$600 a seat one-way. Officials declared a local emergency over the lack of service, then appropriated more than \$350,000 to pay for charters, according to a report from KUCB.

No animals are allowed on the public charters, according to the contract.

Weather forced cancellation of the city’s charters Monday. Additional charters were scheduled for Wednesday, Thursday and Friday, as well as more on Monday, Nov. 11. The city is keeping an updated list of flights on its website. To make reservations or for updated flight information call the RavnAir reservation line at 907-266-8394 or 1-800-866-8394.

RavnAir Group update on cyber-attack — Update for 12/28/19

30th December, 2019 / Posted in Ravn News

RavnAir Group continues to be impacted by the cyber-attack it experienced on Friday, December 20th; and the impact of this disruption now appears more extensive than initially reported.

While the Air Group continues to operate flights at all three of its airlines, company officials and outside experts have now determined that it may take as long as one month to have all affected IT systems fully restored and back to normal. Given this news, customers should expect some additional cancellations and delays at all three airlines as recovery efforts continue in coordination with government officials and outside cyber crime experts.

RavnAir Group's number one priority remains to ensure the safety of our passengers and employees, and this may cause operations to run at a slower pace while manual processes and back-up systems are in use.

The company will continue its efforts to provide advance notifications and re-bookings for passengers who may be affected, and we would like to thank everyone impacted by this cyber attack for their continued patience and understanding while we deal with this disruption during the busy holiday period.

Further updates will be provided as information becomes available.

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ANCHORAGE DAILY NEWS

Alaska News

Aleutian island volcano again sends ash cloud nearly 5 miles high

✎ Author: Zaz Hollander ⓘ Updated: 2 days ago 📅 Published 2 days ago



Shishaldin Volcano in late December 2019. (Alaska Volcano Observatory)

A volcano in Alaska's Aleutian Islands began erupting Friday morning, with a pilot reporting an ash cloud estimated as high as 24,000 feet, officials say.

Shishaldin Volcano, which erupted briefly last month, was sending up a cloud of volcanic ash that was moving southeast at 50 knots, the National Weather Service said. No communities were expected to see ashfall as of late Friday morning.



Dave Snider

@DaveSnider



#Alaska's Shishaldin volcano has erupted... watch for more from @alaska_avo and the @NWS. Prelim estimates are to 24,000 feet. @NWSAnchorage says it does not affect any communities yet.

SIGMET from Alaska Aviation Weather Unit / #Volcanic Ash Advisory Center here#AKwx

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NSVAK1
ANCI WS 031908
PAZA SIGMET INDIA 1 VALID 031908/032308 PANC-
ANCHORAGE FIR VA ERUPTION SHISHALDIN VOLCANO PSN N5445 W16358
ESTIMATED ASH TOP FL200.

PILOT REPORTED ERUPTION AT 1852Z WITH ASH TOP TO FL200 HEADING SE
BOUND. ERUPTION CONFIRMED WITH GOES SATELLITE IMAGERY. VA SIGMET
WILL FOLLOW SHORTLY.

NS JAN 2020 AAMU
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10:33 AM - Jan 3, 2020



See Dave Snider's other Tweets

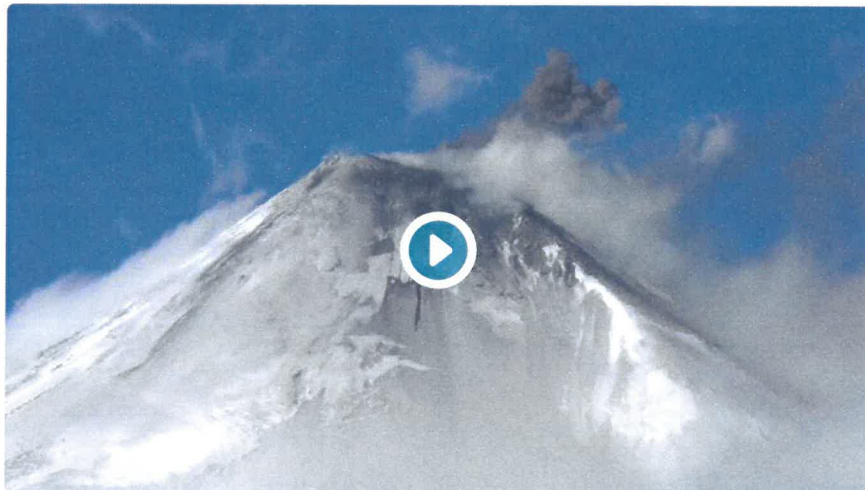


Alaska AVO

@alaska_avo



Happy New Year! Here's a time-lapse video of #Shishaldin #volcano, with low-level ash emissions, taken Dec 20, 2019, by W Mayo (@akdggs)



82 9:22 AM - Dec 31, 2019



34 people are talking about this



Shishaldin Volcano erupted for about three minutes the morning of Dec. 12, producing an ash cloud that reached up to 25,000 feet.



Alaska AVO
@alaska_avo



#Shishaldin looks beautiful tonight from Cold Bay, with incandescent material coming down its flank. Photos courtesy of Aaron Merculief, Dec 12, 2019.



222 9:15 PM - Dec 12, 2019



99 people are talking about this



Shishaldin is on Unimak Island, 23 miles from False Pass and almost 700 miles from Anchorage.

About this Author

Zaz Hollander

Veteran ADN reporter Zaz Hollander is based in Wasilla and covers the Mat-Su region and breaking news.

